REMARKS

Claim 24 has been amended so that the sequence identifier designations are consistent.

Claim 25 has been amended to change the language "217-236 or 238-240" to read "217-236 or 240." Support for the language "240" can be found at page 5, line 1 of the specification.

It is submitted that these amendments do not constitute new matter, and its entry is requested.

The undersigned would like to thank the Examiner for the courtesies extended during the interview held on 8 February 2005, during which support for the language in claims 25 and 44 (as then on file) was discussed. The undersigned indicated that the language was supported by pages 4 and 5 of the specification. The continuity data was also briefly discussed. Applicants filed a Supplemental Amendment by facsimile on 9 February 2005 to update and amend the continuity data. Because Applicants believed that the specification fully supported claims 25 and 44, these claims were not further amended in the Supplemental Amendment. Applicants note that the present Office Action does not refer to the Supplemental Amendment filed on 9 February 2005. Applicants would appreciate it if the Examiner could confirm that this Supplemental Amendment has been entered for the present application.

The Examiner rejected claim 25 under 35 U.S.C. § 112, first paragraph for lack of written description. The Examiner contends that the language "238-240" is not disclosed in the specification and is new matter. Applicants believe that this language is fully supported in the specification by the language "The start of the mature protein is preferably in the region of amino acids 217-240." This language in the specification, albeit not an *in haec verba* description of the claimed invention, does contain an equivalent description of the claimed invention. Such a description is sufficient. *See, Lockwood v. American Airlines Inc.*, 107 F.3d 1565, 41 USPQ2d 1961; *Eiselstein v. Frank*, 52 F.3d 1035, 34 USPQ2d 1467 (Fed. Cir. 1995). Although Applicants believe that the specification fully describes the language of previously submitted claim 25, they have nevertheless amended claim 25 to only refer to residue "240" (instead of "238-240") for which there is a direct description in the specification in order to advance the prosecution of this application to allowance.

It is submitted that the amendment of claim 25 obviates this rejection, and its withdrawal is requested.

The Examiner rejected part (c) of claim 24 under 35 U.S.C. § 101 for same-type double patenting over claim 9 of U.S. Patent No. 6,120,760. It is submitted that the Examiner is in error in this rejection.

Specifically, the Examiner correctly contends that the 352 amino acids of SEQ ID NO:4 of the '760 patent are 100% identical to the amino acid sequence of SEQ ID NO:2 of the present application. However, the Examiner incorrectly contends that the amino acid sequence of SEQ ID NO:2 of the present application is encoded by nucleotide sequence of SEQ ID NO:3 of the present application. The amino acid sequence of SEQ ID NO:2 of the present application is encoded by SEQ ID NO:1 of the present application. See page 4, last two paragraphs of the present application as filed. The nucleotide sequence of SEQ ID NO:3 of the present application encodes the amino acid sequence of SEQ ID NO:4 of the present application. See page 6, first two full paragraphs of the present application as filed. Because SEQ ID NO:4 of the present application is not 100% identical to SEQ ID NO:4 of the '760 patent, the '760 patent does not claim the amino acid sequence of SEQ ID NO:4 of the present application and does not claim a nucleotide sequence that encodes this amino acid sequence, i.e., the nucleotide sequence of SEQ ID NO:3 of the present application.

In addition, the '760 patent does not claim a nucleotide sequence of nucleotides 866-1133 of SEQ ID NO:1 as set forth in part (a) of claim 24 or the amino acid sequence encoded by this nucleotide sequence.

Thus, it is submitted that part (c) of claim 24 is not claimed in the '760 patent. Because part (c) of claim 24 is not claimed in the '760 patent, there is no statutory double patenting between claim 24 of the present application and the '760 patent. Withdrawal of this rejection is requested.

In view of the above amendments and remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the prior art. Reconsideration of the

instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

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